IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 7927 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GURMITKAUR MUKHTYARSINGH DHIMAN W/O. MUKHTYARSINGH

Versus

THE STATE OF GUJARAT AND OTHERS

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Appearance :
MR PRIMIT S PURANI for Applicant.
MR DIPEN DESAI, APP for Respondent No.1.
RULE SERVED BY DS for Respondent Nos.2 - 3.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 30/08/2007

ORAL JUDGMENT

1. None present for respondent nos.2 and 3, though served.

2. The petitioner has invoked the provisions of Section 407 of the Code of Criminal Procedure, 1973 (for short "the Code") for pressing the

prayer of transfer of Criminal Case No.15/2003 pending in the Court of learned Judicial Magistrate, First Class, Anand to the Court of competent jurisdiction in Vadodara. According to the petition, respondent no.2, the original complainant, has filed similar complaints under Section 138 of the Negotiable Instruments Act and they were registered as Criminal Case No.2351/2002 and Criminal Case No.1024/2004, and those cases pending in the Courts of JMFC at Savli and Padra were already ordered to be transferred to the Court of learned Chief Judicial Magistrate, Vadodara by order dated 22-8-2006 of learned Principal District Judge, Vadodara in Misc. Criminal Application No.899/2006. It is also submitted that the petitioner is a widow and has aged parents, out of whom the father is suffering from terminal illness. The financial and physical condition of the petitioner is also stated to be so poor as not to permit her frequent travel to Anand for the purpose of attending the case as an accused person. It is also submitted that the complainant has left India after executing a power of attorney in favour of her husband, who is attending the cases and also residing in Vadodara. The averments made in the petition are not denied by or on behalf of the respondents.

3. In the above facts and circumstances, the petition is required to be allowed and accordingly it is allowed for general convenience of the parties and it being expedient for the ends of justice. Accordingly, Criminal Case No.15/2003 stated to be pending in the Court of learned JMFC, Anand shall be transferred to Court of learned Chief Judicial Magistrate, Vadodara or such other Court to which it may be entrusted by him or learned Principal District Judge, Vadodara, for trial. Rule is made absolute accordingly with no order as to costs.

(D.H.Waghela, J.)

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